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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

VILMA SERRALTA,)	No. C 08-01427 CW
)	
Plaintiff,)	NOTICE OF MOTION AND MOTION TO
v.)	COMPEL FURTHER RESPONSES TO
)	PLAINTIFF'S SECOND SET OF REQUESTS FOR
SAKHAWAT KHAN; ROOMY KHAN; and)	PRODUCTION OF DOCUMENTS AND
DOES ONE through TEN, inclusive,)	PLAINTIFF'S FIRST SET OF SPECIAL
)	INTERROGATORIES
Defendants.)	
)	Date: January 8, 2008
)	Time: 2:00 p.m.
)	Courtroom: 2, 4th Floor
)	Judge: Honorable Claudia Wilken
)	

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NOTICE OF MOTION AND MOTION

NOTICE IS HEREBY GIVEN that on January 8, 2008, at 2:00 p.m., or as soon thereafter as the matter may be heard, in the above-entitled court, the Plaintiff will move the court for an Order compelling further responses to 1) Plaintiff's Second Set of Requests for Production of Documents to Defendants Roomy Khan and Sakhawat Khan¹ and 2) Plaintiff's First Set of Interrogatories to Defendant Roomy Khan. Plaintiff also moves for an Order that Defendants and their attorney of record pay to the moving party the sum of \$5,865.00 as the reasonable costs and attorneys' fees incurred by the moving party in connection with this proceeding.

This Motion is made pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rules Civil L.R. 7-1 and 7-2, on the ground that Defendants' refusal to answer the interrogatories and refusal to produce documents is without justification. This motion will be based on this Notice of Motion and Motion; the attached Memorandum of Points and Authorities; the Declaration of Matthew Goldberg; the interrogatories, requests for production, and responses (copies of which are attached hereto and incorporated herein); the pleadings and records on file in this case; and oral argument.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction.

Plaintiff Vilma Serralta was employed by Defendants as a domestic worker living in their private residence between July 8, 2002 and September 11, 2006. This action arises out of allegations that Defendants violated the Fair Labor Standards Act ("FLSA"), the California Labor Code ("Labor Code"), the California Industrial Welfare Commission Wage Order ("IWC Wage Order"), and the California Business and Professions Code ("Business and Professions Code"). Specifically, Plaintiff alleges, *inter alia*, failure to pay minimum wage,

¹ Plaintiff propounded identical Requests for Production on Defendants Roomy and Sakhawat Khan. Defendants' responses to these requests were identical. For the sake of convenience, all future references to these two identical sets of requests (and identical responses) are made in the singular.

1 failure to provide proper compensation for overtime hours, failure to provide meal and rest
2 periods, failure to furnish wage and hour statements, and unlawful and unfair business
3 practices. Compl. ¶¶ 42-93.

4 Pursuant to Fed. R. Civ. P. 37 and Local Rules 37-2 , Plaintiff moves this Court for an
5 Order compelling further responses to 1) Plaintiff's Second Set of Requests for Production of
6 Documents to Defendants Roomy Khan and Sakhawat Khan and 2) Plaintiff's First Set of
7 Interrogatories to Defendant Roomy Khan. Plaintiff also moves for an Order that Defendants
8 and their attorney of record pay to the moving party the sum of \$5,865.00 as the reasonable
9 costs and attorneys' fees incurred by the moving party in connection with this proceeding.

10 The requests for production and the interrogatories at issue in this motion seek basic
11 information that will shed important light on facts relevant to Plaintiff's case. In lieu of good
12 faith responses, Defendants have set forth a set of boilerplate objections, all of which are
13 unavailing. To date, Defendants have provided no substantive response to the interrogatories
14 at issue nor have they produced any documents in response to the requests for production at
15 issue. Defendants are either unwilling to undertake the effort to provide the information
16 requested by these discovery requests, or are intentionally endeavoring to prevent Plaintiff
17 from obtaining the information sought. Either way, Defendants' conduct is improper.

18 Moreover, Defendants' refusal to respond to these basic and straightforward written
19 discovery requests has had a ripple effect on the progress of the case. Despite raising the
20 prospect of depositions as far back as May 2008, Plaintiff has been unable to take Defendant
21 depositions due to Defendants' refusal to set forth good faith responses to the written discovery
22 at issue in this motion. Thus, the net effect of Defendants' failure here has been to
23 substantially prejudice Plaintiff's efforts to conduct meaningful and thorough discovery. As
24 such, an order compelling straightforward and complete responses is appropriate.

25 **II. Procedural Background.**

26 Plaintiff began attempting to schedule Defendant depositions in this matter as far back
27 as May 27, 2008. This effort was memorialized in the June 10, 2008 Joint Case Management
28

1 Statement, which indicated that Plaintiff had initiated a discussion with Defendants regarding
2 deposition scheduling, as well as a series of emails from Plaintiff's counsel to Defendants'
3 counsel. (Goldberg Decl., Ex. "A").

4 On June 18, 2008, Plaintiff served Defendants Sakhawat Khan and Roomy Khan with
5 forty-one (41) requests for production. (Goldberg Decl., Ex. "B" and "C"). On June 19, 2008,
6 Plaintiff served Defendant with five (5) narrowly tailored interrogatories, focusing on the
7 identities and work schedules of other employees at Defendants' residence. (Goldberg Decl.,
8 Ex. "D"). The initial (and only) responses to Plaintiff's requests for production were served by
9 Defendants on July 18, 2008. (Goldberg Decl., Ex. "E" and "F"). The initial (and only)
10 responses to Plaintiff's interrogatories were served by Defendants on July 24, 2008. (Goldberg
11 Decl., Ex. "G"). In the month between propounding these discovery requests and receiving
12 responses, Plaintiff's counsel repeatedly attempted to schedule Defendant depositions.

13 The shortcomings in Defendants' responses were immediately apparent, and Defendant
14 depositions were put on hold until the shortcomings could be addressed. On August 27, 2008,
15 the parties participated in a mediation session with Robert Edwards, which failed to result in
16 any type of agreement or resolution.

17 On September 12, 2008, shortly after the failed mediation session, counsel for Plaintiff
18 sent Defendants' counsel a seven-page letter outlining the specific inadequacies in Defendant's
19 discovery responses in a good faith effort to meet and confer under Rule 37 of the Federal
20 Rules of Civil Procedure and Civil Local Rule 37-1(a). (Goldberg Decl., Ex. "H").

21 The parties' counsel met and conferred telephonically on September 23, 2008 regarding
22 Defendants' insufficient responses to Plaintiff's written discovery as outlined in Plaintiff's
23 counsel's September 12, 2008 letter. Defendants' counsel reiterated Defendants' objections to
24 a subset of the disputed inquiries, but promised to reconsider Defendants' responses to the
25 remaining inquiries.

26 Defendants' counsel, however, conducted no such reconsideration. Instead,
27 Defendants' counsel waited over two weeks before contacting Plaintiff's counsel by telephone
28

on October 8, 2008 to explain that Defendants would be substituting new counsel in this matter. The following day, Plaintiff's counsel wrote an email to Defendants' counsel seeking clarification on whether Defendants still intended to supplement their responses to any of the disputed discovery inquiries. (Goldberg Decl., Ex. "I").

Another full week passed before Defendants' counsel, on October 16, 2008 wrote an email that counsel would "get back to [Plaintiff's counsel] by early next week." (Goldberg Decl., Ex. "J").

Two more weeks passed before Defendant's counsel indicated that Wilson Sonsini Goodrich & Rosati would not engage in any further work on this case, including any work to resolve the discovery disputes at issue in this motion. On November 17, 2008, Defendants' counsel e-filed a motion to withdraw as counsel in this case.

Thus, over two months after Plaintiff's counsel commenced meeting-and-conferring, and despite a promise to reconsider some responses, Defendants' counsel now refuses to address these ongoing discovery disputes. As such, a dispute still remains with respect to 1) Plaintiff's Second Set of Requests for Production of Documents, Nos. 3, 16, 18 – 22, and 25 – 35; and 2) Plaintiff's First Set of Special Interrogatories, Nos. 1 – 5. Moreover, Defendants' failures to adequately respond to these discovery requests (despite two months of meeting-and-conferring) also means that Defendant depositions remain unscheduled over five months after Plaintiff's counsel first raised a need for them.

III. Text of Requests for Production and Special Interrogatories, and Responses Thereto, at Issue in this Motion.

Following is the text of Plaintiff's 18 Requests for Production and 5 Special Interrogatories that are at issue in the instant motion to compel, as well as Defendants' objections and responses thereto. (Goldberg Decl., Ex. "B", "C", and "D" for Plaintiff's discovery requests, Ex. "E", "F", and "G" for Defendants' responses).

Request for Production No. 3:

1 ALL DOCUMENTS constituting, reflecting, concerning, describing, referring,
2 or relating to any worker's compensation policy maintained by YOU during any
3 period of time when PLAINTIFF was employed by YOU. This request includes
4 any homeowner's insurance or other insurance policies covering any injuries
5 suffered by individuals while working at YOUR RESIDENCE between July
6 2002 and September 2006.

7 Defendant's response provides as follows:

8 Defendant objects to this request because it calls for the production of documents
9 that are neither relevant to the subject matter of this action nor reasonably
10 calculated to lead to the discovery of admissible evidence.

11 Request for Production No. 16:

12 ALL photographs, images, video recordings, computerized images, digital image
13 files, or digital video files in which PLAINTIFF appears.

14 Defendant's response provides as follows:

15 Defendant objects to this request on the grounds that (1) it is overly broad or
16 unduly burdensome, (2) it seeks information that is neither relevant to the subject
17 matter of this action nor reasonably calculated to lead to the discovery of
18 admissible evidence, and (3) it impinges on the constitutionally protected right to
19 privacy of Defendant and third parties. Without waiving and subject to this
20 objection, Defendant responds as follows: Defendant will produce all non-
21 privileged documents in his possession or control that are responsive to this
22 Request, except any in which Plaintiff's daughter appears.

23 Request for Production No. 18:

24 ALL DOCUMENTS, including COMMUNICATIONS, concerning, identifying,
25 referring, pertaining, or relating to any PERSON(S) who performed any job duty
26 at YOUR RESIDENCE for any business or company YOU operated at YOUR
27 RESIDENCE, at any time from July 2002 to September 2006. This request
28 includes but is not limited to any DOCUMENTS reflecting, concerning,
describing, referring, or relating to the job duties and/or responsibilities, dates of
employment, or work hours or schedule of any such PERSON(S). To the extent
any responsive DOCUMENTS include the Social Security number or taxpayer
identification number of such PERSON(S), such information may be redacted.

Defendant's response provides as follows:

Defendant objects to this request on the grounds that (1) it seeks information
protected by the attorney client privilege and the attorney work product doctrine,
(2) it is overly broad and/or unduly burdensome, (3) it seeks information that is
neither relevant to the subject matter of this action nor reasonably calculated to

1 lead to the discovery of admissible evidence, and (4) it impinges on the
2 constitutionally protected right to privacy of Defendant and third parties.

3 Request for Production No. 19:

4 ALL DOCUMENTS reflecting, describing, referring or relating to the dates,
5 days of the week, and/or hours per day that YOUR daughter Priyanka attended
pre-school or school, at any time from July 2002 to September 2006.

6 Defendant's response provides as follows:

7 Defendant objects to this request on the grounds that (1) it seeks information protected
8 by the attorney client privilege and the attorney work product doctrine, (2) it is overly
9 broad and/or unduly burdensome, (3) it seeks information that is neither relevant to the
10 subject matter of this action nor reasonably calculated to lead to the discovery of
admissible evidence, and (4) it impinges on the constitutionally protected right to
11 privacy of Defendant and third parties. Without waiving and subject to these
objections, Defendant responds as follows:

12 This request seeks private and confidential information relating to Defendant's minor
13 child, who is not a party to this litigation. Defendant will disclose such documents only
pursuant to a mutually acceptable

14 Request for Production No. 20:

15 ALL DOCUMENTS reflecting, describing, referring or relating to the dates, days of
16 the week, and/or hours per day that YOUR daughter Priyanka participated in
17 extracurricular and/or after-school activities or classes, at any time from July 2002 to
September 2006.

18 Defendant's response provides as follows:

19 Defendant objects to this request on the ground that (1) it seeks information protected
20 by the attorney client privilege and the attorney work product doctrine, (2) it is overly
21 broad and/or unduly burdensome, (3) it seeks information that is neither relevant to the
22 subject matter of this action nor reasonably calculated to lead to the discovery of
admissible evidence, and (4) it impinges on the constitutionally protected right to
23 privacy of Defendants and third parties. Without waiving and subject to these
objections, Defendant responds as follows:

24 This request seeks private and confidential information relating to Defendant's minor
25 child, who is not a party to this litigation. Defendant will disclose such documents only
26 pursuant to a mutually acceptable Protective Order and after meeting and conferring
over the scope of the request.

27 Request for Production No. 21:

1 ALL DOCUMENTS reflecting, concerning, describing, referring or relating to any
2 party, gathering, or social event of ten guests or more that YOU hosted in YOUR
3 RESIDENCE, including but not limited to invitations, catering receipts, menus, guest
4 lists, or equipment rental receipts, at any time from July 2002 to September 2006.

5 Defendant's response provides as follows:

6 Defendant objects to this request on the ground that (1) it seeks information protected
7 by the attorney client privilege and the attorney work product doctrine, (2) it is overly
8 broad and/or unduly burdensome, (3) it seeks information that is neither relevant to the
9 subject matter of this action nor reasonably calculated to lead to the discovery of
10 admissible evidence, and (4) it impinges on the constitutionally protected right to
11 privacy of Defendants and third parties.

12 Request for Production No. 22:

13 ALL DOCUMENTS that reflect, record, list, or refer to the names, addresses, or
14 telephone numbers of any PERSON(S) who visited YOUR RESIDENCE, including but
15 not limited to address books, notes, letters, memos, emails, or computer files, at any
16 time from July 2002 to September 2006.

17 Defendant's response provides as follows:

18 Defendant objects to this request on the ground that (1) it seeks information protected
19 by the attorney client privilege and the attorney work product doctrine, (2) it is overly
20 broad and/or unduly burdensome, (3) it seeks information that is neither relevant to the
21 subject matter of this action nor reasonably calculated to lead to the discovery of
22 admissible evidence, and (4) it impinges on the constitutionally protected right to
23 privacy of Defendants and third parties.

24 Request for Production No. 25:

25 ALL photographs, images, video recordings, computerized images, digital image files,
26 or digital video files of YOUR RESIDENCE, taken or recorded at any time from July
27 2002 to September 2006.

28 Defendant's response provides as follows:

Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
burdensome, and harassing, (2) it seeks information that is neither relevant to the
subject matter of this action nor reasonably calculated to lead to the discovery of
admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
Defendant and third parties, and (4) if seeks information equally available to Plaintiff,
because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
measure, photograph, and videograph the interior and exterior of Defendants'
residence.

1 Request for Production No. 26:

2 ALL DOCUMENTS describing, depicting, relating or referring to any CLEANING
3 EQUIPMENT used to clean and/or maintain YOUR RESIDENCE, including but not
4 limited to instructional brochures, handling instructions, or warranties, at any time from
5 July 2002 to September 2006.

6 Defendant's response provides as follows:

7 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
8 burdensome, and harassing, (2) it seeks information that is neither relevant to the
9 subject matter of this action nor reasonably calculated to lead to the discovery of
10 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
11 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
12 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
13 measure, photograph, and videograph the interior and exterior of Defendants'
14 residence.

15 Request for Production No. 27:

16 ALL DOCUMENTS describing, reflecting, recording, referring, or relating to any
17 remodeling projects at YOUR RESIDENCE, including but not limited to contracts,
18 bids, estimates, architectural plans, receipts, or invoices, at any time from July 2002 to
19 the date of YOUR response to PLAINTIFF'S Second Set of Requests for Production of
20 Documents to YOU.

21 Defendant's response provides as follows:

22 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
23 burdensome, and harassing, (2) it seeks information that is neither relevant to the
24 subject matter of this action nor reasonably calculated to lead to the discovery of
25 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
26 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
27 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
28 measure, photograph, and videograph the interior and exterior of Defendants'
residence.

29 Request for Production No. 28:

30 ALL DOCUMENTS that reflect, record, or describe the dimensions, size, and/or
31 weight of any and/or all chairs located in the dining or kitchen area(s) of YOUR
32 RESIDENCE.

33 Defendant's response provides as follows:

34 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
35 burdensome, and harassing, (2) it seeks information that is neither relevant to the

1 subject matter of this action nor reasonably calculated to lead to the discovery of
2 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
3 Defendant and third parties, and (4) if seeks information equally available to Plaintiff,
4 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
5 measure, photograph, and videograph the interior and exterior of Defendants'
6 residence.

7
8 Request for Production No. 29:

9 ALL DOCUMENTS that reflect, record, or describe the dimensions, size, and/or
10 weight of any and/or all area rugs in YOUR RESIDENCE.

11 Defendant's response provides as follows:

12 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
13 burdensome, and harassing, (2) it seeks information that is neither relevant to the
14 subject matter of this action nor reasonably calculated to lead to the discovery of
15 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
16 Defendant and third parties, and (4) if seeks information equally available to Plaintiff,
17 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
18 measure, photograph, and videograph the interior and exterior of Defendants'
19 residence.

20 Request for Production No. 30:

21 ALL DOCUMENTS that reflect, record, or describe the dimensions, size, and/or
22 weight of any and/or all bed mattresses in YOUR RESIDENCE.

23 Defendant's response provides as follows:

24 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
25 burdensome, and harassing, (2) it seeks information that is neither relevant to the
26 subject matter of this action nor reasonably calculated to lead to the discovery of
27 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
28 Defendant and third parties, and (4) if seeks information equally available to Plaintiff,
because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
measure, photograph, and videograph the interior and exterior of Defendants'
residence.

Request for Production No. 31:

ALL DOCUMENTS that reflect, record, or describe the dimensions and/or size of any
and/or all table(s) used by YOU to dine in YOUR RESIDENCE.

Defendant's response provides as follows:

1 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
2 burdensome, and harassing, (2) it seeks information that is neither relevant to the
3 subject matter of this action nor reasonably calculated to lead to the discovery of
4 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
5 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
measure, photograph, and videograph the interior and exterior of Defendants'
residence.

6 Request for Production No. 32:

7 ALL DOCUMENTS that reflect, record, or describe the dimensions and/or size of any
8 and/or all patio furniture in YOUR RESIDENCE.

9 Defendant's response provides as follows:

10 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
11 burdensome, and harassing, (2) it seeks information that is neither relevant to the
12 subject matter of this action nor reasonably calculated to lead to the discovery of
13 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
14 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
measure, photograph, and videograph the interior and exterior of Defendants'
residence.

15 Request for Production No. 33:

16 ALL DOCUMENTS that reflect, record, or describe the dimensions and/or size of any
17 and/or all couches or sofas in YOUR RESIDENCE.

18 Defendant's response provides as follows:

19 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
20 burdensome, and harassing, (2) it seeks information that is neither relevant to the
21 subject matter of this action nor reasonably calculated to lead to the discovery of
22 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
23 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
measure, photograph, and videograph the interior and exterior of Defendants'
24 residence.

25 Request for Production No. 34:

26 ALL DOCUMENTS that reflect, record, or describe the dimensions and/or size of any
27 and/or all shower stalls in YOUR RESIDENCE.

28 Defendant's response provides as follows:

1 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
 2 burdensome, and harassing, (2) it seeks information that is neither relevant to the
 3 subject matter of this action nor reasonably calculated to lead to the discovery of
 4 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
 5 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
 measure, photograph, and videograph the interior and exterior of Defendants'
 residence.

6 Request for Production No. 35:

7
 8 ALL DOCUMENTS that reflect, record, or describe the dimensions and/or size of any
 and/or all bathtubs in YOUR RESIDENCE.

9 Defendant's response provides as follows:

10 Defendant objects to this request on the ground that (1) it is overly broad and/or unduly
 11 burdensome, and harassing, (2) it seeks information that is neither relevant to the
 12 subject matter of this action nor reasonably calculated to lead to the discovery of
 13 admissible evidence, (3) it impinges on the constitutionally protected right to privacy of
 Defendant and third parties, and (4) it seeks information equally available to Plaintiff,
 14 because, on July 4, 2008, Plaintiff entered upon Defendants' property to inspect,
 measure, photograph, and videograph the interior and exterior of Defendants'
 15 residence.

16 Interrogatory No. 1:

17 Identify all person(s) or entity(ies) other than Plaintiff who were employed
 and/or paid by you to clean, maintain, and/or repair your residence
 18 (including but not limited to gardening work, pool maintenance, cleaning
 services, childcare services, catering services, or food preparation
 19 services), at any time from January 2002 to the date of your response to
 Plaintiff's First Set of Interrogatories to you.
 20

21 Defendant's response provides as follows:

22 Defendant objects to this interrogatory on the grounds that (1) it is overly
 23 broad and/or unduly burdensome, (2) it seeks information that is neither
 relevant to the subject matter of this action nor reasonably calculated to
 24 lead to the discovery of admissible evidence, (3) it subjects Defendant to
 unreasonable and/or undue annoyance, oppression, expense, and/or
 25 harassment, and (4) it impinges on the constitutionally protected right to
 privacy of Defendant and third parties.
 26

27 Interrogatory No. 2:

1 For each person(s) or entity(ies) identified by you in response to
2 Interrogatory No. 1, state the following: (i) the dates of employment of
3 service of such person or entity; (ii) the work hours and/or work
4 schedules of such person or entity; and (iii) the job duties,
responsibilities, and/or services performed at your residence by such
person or entity.

5 Defendant's response provides as follows:

6 Defendant objects to this Interrogatory on the grounds that (1) it is overly
7 broad and/or unduly burdensome, (2) it seeks information that is neither
8 relevant to the subject matter of this action nor reasonably calculated to
9 lead to the discovery of admissible evidence, (3) it subjects Defendant to
unreasonable and/or undue annoyance, oppression, expense, and/or
harassment, (4) it impinges on the constitutionally protected right to
privacy of Defendant and third parties and (5) it is compound.

10 Interrogatory No. 3:

11 Identify all person(s) who performed any job duty, responsibility, or
12 service at your residence for any business or company you operated at
13 your residence, at any time from July 2002 to September 2006.

14 Defendant's response provides as follows:

15 Defendant objects to this Interrogatory on the grounds that (1) it is overly
16 broad and/or unduly burdensome, (2) it seeks information that is neither
17 relevant to the subject matter of this action nor reasonably calculated to
18 lead to the discovery of admissible evidence, (3) it subjects Defendant to
unreasonable and/or undue annoyance, oppression, expense, and/or
harassment, (4) it impinges on the constitutionally protected right to
19 privacy of Defendant and third parties, and (5) it calls for the disclosure of
information that is protected by the attorney-client privilege and/or the
20 work product doctrine.

21 Interrogatory No. 4:

22 For each person identified by you in response to Interrogatory No. 3, state
23 the following: (i) the dates of employment or service of such person; (ii)
24 the work hours and/or work schedules of such person; and (iii) the job
duties, responsibilities and/or services performed at your residence by
such person.

25 Defendant's response provides as follows:

26 Defendant objects to this interrogatory on the grounds that (1) it is overly
27 broad and/or unduly burdensome, (2) it seeks information that is neither
28

relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, (3) it subjects Defendant to unreasonable and/or undue annoyance, oppression, expense, and/or harassment, (4) it impinges on the constitutionally protected right to privacy of Defendant and third parties, (5) it calls for the disclosure of information that is protected by the attorney-client privilege and/or the work product doctrine, and (6) it is compound.

Interrogatory No. 5:

Identify all person(s) who visited or stayed at your residence as a house guest, any time from July 2002 to September 2006.

Defendant's response provides as follows:

Defendant objects to this Interrogatory on the grounds that (1) it is overly broad and/or unduly burdensome, (2) it seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, (3) it subjects Defendant to unreasonable and/or undue annoyance, oppression, expense, and/or harassment, (4) it impinges on the constitutionally protected right to privacy of Defendant and third parties.

IV. Argument.

In lieu of substantive responses to the five interrogatories and eighteen requests for production at issue in this motion, Defendants set forth a series of boilerplate objections and privilege claims unaccompanied by any evidence, explanation, or basis. "The party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections." *Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D 281, 283 (C.D. Cal. 1998). All grounds for objection to an interrogatory must be stated "with specificity." F.R.C.P. 33(b)(4). If required to make the objection understandable, the objecting party must state reasons for any objection. *Id.*; *Chubb Integrated Sys. Ltd. v. National Bank of Wash.* (D.D.C. 1984) 103 F.R.D. 52, 58; *Mitchell v. National R.R. Passenger Corp.* (D.D.C. 2002) 208 F.R.D. 455, 458, fn. 4.

1 Notwithstanding this lack of specificity, all of Defendant's responses to the
 2 interrogatories and requests at issue in this motion are still unavailing. Contrary to
 3 Defendant's unsupported contentions, each of the interrogatories and requests are relevant to
 4 Plaintiff's claim or reasonably calculated to lead to the discovery of admissible evidence.
 5 None of them implicate Defendant's or third parties' privacy. They are neither overly broad
 6 nor unduly burdensome. They do not subject Defendant to unreasonable and/or undue
 7 annoyance, oppression, expense, and/or harassment. Nor are answers barred by the work
 8 product doctrine or the attorney-client privilege.
 9

10 **A. The Interrogatories and Requests for Production at Issue in this Motion**
 11 **are Relevant and Reasonably Calculated to Lead to the Discovery of**
 12 **Admissible Evidence.**

13 Defendant objects to all of the interrogatories and requests for production at Issue in
 14 this motion on grounds of relevancy. "Parties may obtain discovery regarding any
 15 nonprivileged matter that is relevant to any party's claim or defense—including the existence,
 16 description, nature, custody, condition, and location of any documents or other tangible things
 17 and the identity and location of persons who know of any discoverable matter...Relevant
 18 information need not be admissible at the trial if the discovery appears reasonably calculated to
 19 lead to the discovery of admissible evidence." F. R. Civ. P. 26(b)(1). "For discovery
 20 purposes, 'relevancy' is a broad term." *Liew v. Breen*, 640 F.2d 1046, 1049 (9th Cir. 1981).
 21

22 Plaintiff's core claims for unpaid minimum and overtime wages are based on her
 23 contention that she worked virtually every day and did so for extremely long hours.
 24 Defendants deny this contention. All of the requests for production and interrogatories at issue
 25 in this motion relate to this core issue of Plaintiff's hours, schedule, and duties.

26 For example, the request for the production of documents related to other employees at
 27 Defendants' residence is relevant to whether Plaintiff had any assistance with her
 28

1 housekeeping and childcare duties. The request for the production of documents related to
 2 large parties at Defendants' residence is relevant to whether Plaintiff had additional party
 3 preparation and hosting duties and whether there were any witnesses to those additional duties.
 4 The requests for production of documents related to Defendants' daughter's schedule and
 5 activities are directly relevant to determining the specific hours Plaintiff spent caring for
 6 Defendants' daughter. The requests for the production of documents related to the physical
 7 size and layout of Defendants' residence is relevant in determining how much time Plaintiff
 8 spent performing her various housekeeping duties.
 9

10 The five interrogatories at issue in this motion seek nothing more than information
 11 about other persons employed at Defendants' residence and information about visitors to the
 12 residence who may have witnessed Plaintiff's work. Each of these interrogatories is directly
 13 relevant to the most basic issues about Plaintiff's hours, schedule, and duties.
 14

15 **B. The Interrogatories and Requests for Production at Issue in this**
 16 **Motion Do Not Implicate Defendants' or Third Parties' Privacy**
Interests.

17 Defendant objects to all of the interrogatories and requests for production at issue in
 18 this motion on grounds of privacy. The right to privacy enshrined in the California
 19 Constitution is not a complete bar to discovery, and indeed, the inherent demands of litigation
 20 may merit invasion of privacy. *See Ragge v. MCA Universal Studios*, 165 F.R.D. 601, 604
 21 (C.D. Cal. 1995); *Cook v. Yellow Freight System, Inc.*, 132 F.R.D. 548, 551 (E.D. Cal. 1990)
 22 ("Public disclosure, in the end, is not only natural and generally unavoidable but also necessary
 23 and healthy to a process so dependant on accuracy and truth").
 24

25 Thus, when facing a challenge to proposed discovery on privacy grounds, a court will
 26 undertake a balancing test, weighing the need for information against the privacy interest
 27 asserted. *Ragge*, 165 F.R.D. at 604-05.
 28

None of the interrogatories or requests for production at issue in this motion implicate substantial privacy interests. None of these inquiries “pertain to sexual, health, or financial matters, areas generally considered to be private or confidential.” *See id.* at 604. In contrast, the information sought through these interrogatories and requests for production, concerning the nature and quantity of Plaintiff’s work for Defendant and the identity of individuals who can corroborate Plaintiff’s claims, is critical to the resolution of this lawsuit and the pursuit of truth and justice.

C. The Interrogatories and Requests for Production at Issue in this Motion are Neither Overly Broad nor Unduly Burdensome.

Defendant objects to all of the interrogatories and requests for production at issue in this motion as overbroad and/or unduly burdensome. Objections must explain how a request or interrogatory is overbroad or unduly burdensome. *St. Paul Reinsurance Co., Ltd. v. Commercial Fin’l Corp.* (N.D.IA 2001) 198 F.R.D. 508, 512. The objecting party must “particularize” the bases for the objection. *Nagele v. Electronic Data Systems Corp.* (W.D. NY 2000) 193 F.R.D. 94, 109. Defendants have failed to substantiate or explain these objections, thus they are unavailing.

D. The Interrogatories at Issue in this Motion do not Subject Defendant to Unreasonable and/or Undue Annoyance, Oppression, Expense and/or Harassment.

Defendant further objects that all of the interrogatories at issue in this motion (but not the requests for production) subject Defendant to unreasonable and/or undue annoyance, oppression, expense and/or harassment. To the contrary, Plaintiff’s straightforward requests are facially reasonable, narrowly tailored, and void of any hint of annoyance, oppression, expense, or harassment. As such, it is unsurprising that, similar to all prior objections, Defendant fails to provide any factual basis or explanation for the objections.

1 However, if Defendant were to garner factual evidence in support of this objection, she
 2 would face a high bar. A court will undertake a balancing test to determine whether “the
 3 burden or expense of the proposed discovery outweighs its likely benefit.” F.R. Civ. P.
 4 26(b)(2)(C)(iii). In making this determination, a court will consider “the amount in
 5 controversy, the parties' resources, the importance of the issues at stake in the action, and the
 6 importance of the discovery in resolving the issues.” *Id.* Here, the fundamental rights at issue,
 7 the importance of identifying witnesses to corroborate Plaintiff’s allegations and verify
 8 disputed facts, and Defendants’ significant financial resources weigh strongly in favor of
 9 allowing the proposed discovery to stand. *See id.*

11 **E. Neither the Attorney-Client Privilege Nor the Work Product**
 12 **Doctrine Bar Answers to The Interrogatories and Requests for**
 13 **Production at Issue in this Motion.**

14 Defendants make a vague and unsupported reference to attorney-client privilege and
 15 the work-product doctrine in their attempt to evade interrogatory nos. 3 and 4 and requests for
 16 production nos. 18 through 22. However, these objections have no bearing on the
 17 interrogatories and requests at issue. Within an individual discovery response, a “blanket
 18 objection,” on the basis of privilege is improper. *Eureka Financial Corp. v. Hartford Acci. &*
 19 *Indem. Co.*, 136 F.R.D. 179, 182 (E.D. Cal. 1991). “If the privilege is worth protecting, a
 20 litigant must be prepared to expend some time to justify the assertion of the privilege.” *Id.*
 21 Moreover, because the assertion of privilege hinders the pursuit of truth and justice, such
 22 assertions are strictly construed. *Id.* (citing *Weil v. Investment/Indicators, Research and*
 23 *Management, Inc.*, 647 F.2d 18, 24 (9th Cir. 1981).

25 Work product doctrine governs the discovery of “documents and tangible things that
 26 are prepared in anticipation of litigation or for trial by or for another party or its
 27 representative.” F.R. Civ. P. 26(b)(3). This doctrine is designed to prevent parties from
 28

1 benefiting from the “wits” of their opponents. *Hickman v. Taylor*, 329 U.S. 495, 516. In stark
 2 contrast, Plaintiff’s interrogatories concern only factual information that Defendant is fully
 3 capable of producing without the aid of counsel. Thus, the factual inquiries contained in
 4 Plaintiff’s interrogatories fall well outside the scope of this doctrine.

5 Nor is attorney-client privilege at issue here. Attorney-client privilege only functions
 6 as a bar to discovery when “necessary to achieve its limited purpose of encouraging full and
 7 frank disclosure by the client to his or her attorney.” *Clarke v. Amer. Commerce Nat’l Bank*,
 8 974 F.2d 127, 129 (citing *Fisher v. United States*, 425 U.S. 391, 403). Again, because nothing
 9 in Plaintiff’s interrogatories or requests for production requires the assistance or involvement
 10 of Defendant’s counsel, these interrogatories and requests do not implicate the attorney-client
 11 privilege.
 12

13 **F. Interrogatory Nos. 2 and 4 Count as Single Interrogatories.**

14 Defendant further objects to Interrogatory Nos. 2 and 4 as compound. A single
 15 question asking for several bits of information relating to the same topic counts as one
 16 interrogatory. See *Safeco of America v. Rawstrom* (C.D.Cal. 1998) 181 F.R.D. 441, 445
 17 (subparts count as one interrogatory “if they are logically or factually subsumed within and
 18 necessarily related to” primary question). The three subparts to Interrogatory Nos. 2 and 4
 19 seek information about the nature of employment – dates, hours, and duties – of the individuals
 20 identified in response to Interrogatory Nos. 1 and 3. These subparts relate to and are subsumed
 21 within the primary question. Regardless of whether the interrogatories presented to Defendant
 22 count as one or more interrogatories for the purpose of the 25-interrogatory limit, Plaintiff has
 23 not exceeded the limit. Defendant is obligated to respond to these interrogatories.
 24
 25

26 **V. Conclusion.**

1 For the aforementioned reasons, the Court should grant Plaintiff's motion to compel
2 further responses to 1) Plaintiff's Second Set of Requests for Production of Documents to
3 Defendants Roomy Khan and Sakhawat Khan and 2) Plaintiff's First Set of Interrogatories to
4 Defendant Roomy Khan. The Court should further grant Plaintiff's motion for an Order that
5 Defendants and their attorney of record pay to the moving party the sum of \$5,865.00 as the
6 reasonable costs and attorneys' fees incurred by the moving party in connection with this
7 proceeding.

8
9
10
11 THE LEGAL AID SOCIETY –
12 EMPLOYMENT LAW CENTER

13
14 Dated: November 24, 2008

By: /s/ Matthew Goldberg
Matthew Goldberg
Counsel for Plaintiff